

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
DOCKET NO.: CWA-08-2003-0002

In the Matter of:)	
)	
Innovative Car Care, Inc.)	
d.b.a. The Wave)	
)	EXPEDITED CONSENT AGREEMENT
)	
Respondent.)	

Complainant, United States Environmental Protection Agency, Region VIII, and Respondent, Innovative Car Care, Inc., by their undersigned representatives, hereby settle the civil cause of action arising out of a spill of oil that occurred on or about January 7, 2002, and violations of the Spill Prevention Control and Countermeasures (SPCC) Plan regulations, and agree as follows:

The Clean Water Act (the Act), as amended, authorizes the Administrator of EPA to assess administrative penalties against any person who discharges oil into or upon the navigable waters and adjoining shorelines of the United States in quantities that have been determined may be harmful to the public health or welfare or environment of the United States, 33 U.S.C. § 1321(b)(6) and (b)(3) or any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 C.F.R. Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This determination includes discharges of oil that (1) violate applicable water quality standards, (2) cause a film, sheen, or discoloration of the surface of the water or the adjoining shoreline, or (3) cause a sludge or emulsion to be deposited beneath the surface of the water or the adjoining shoreline, 40 C.F.R. § 110.3 and the failure to prepare and implement an

SPCC plan, in accordance with 40 C.F.R. § 112.7. This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates The Wave located at 9195 Wadsworth Parkway, Westminster, Colorado.

Respondent admits that on or about January 7, 2002, its facility, The Wave, discharged an unknown quantity of oil into or upon a storm drain system and/or its adjoining shorelines which flows into an unnamed wetland.

Respondent's discharge from its facility caused a sheen upon, or discoloration of, or caused a sludge or emulsion to be deposited on the surface of the storm drain system and/or its adjoining shoreline, and/or on the unnamed wetland.

Respondent's discharge constitutes a violation of Section 311 (b)(3) of the Act.

Respondent admits that its facility is subject to the SPCC regulations.

Respondent admits that it failed to prepare and implement an SPCC Plan for The Wave in accordance with 40 C.F.R. § 112.7.

Respondent agrees to prepare and implement an SPCC Plan for The Wave in accordance with 40 C.F.R. § 112.7 within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion.

Respondent agrees to submit a copy of the SPCC Plan for The Wave to EPA for its review and approval within thirty days.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives its right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$1,800.00; \$500.00 for the discharge of oil in violation of Section 311(b)(3) of the Act and \$1,300.00 for violations of Section 311(j) of the Act which, shall be paid by sending, via certified mail, a cashier's or certified check for that amount, payable to "Oil Spill Liability Trust Fund" along with a signed copy of this agreement, to:

Jane Nakad
Technical Enforcement Program (8ENF-T)
USEPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

Respondent states, under penalty of perjury, that (1) it has investigated the cause of the spill, (2) it has cleaned up the spill to a storm drain system and/or adjoining shorelines which flow into an unnamed wetland pursuant to applicable federal, state and local requirements, (3) it has taken corrective actions and will continue to implement corrective actions designed to prevent future spills, and (4) it will prepare, implement, and maintain an SPCC plan in accordance with 40 C.F.R. § 112.7.

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance or has not cleaned up the discharged oil to a storm

drain system and/or adjoining shorelines which flow into an unnamed wetland as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION VIII,
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By : _____
Connally Mears, Director
Technical Enforcement Program

Innovative Car Care, Inc.,
d.b.a. The Wave, Respondent.

By: _____ Name: _____
Title: _____

THIS DOCUMENT WAS SIGNED BY ALL PARTIES AND FILED WITH THE RHC
ON 10/21/02.